

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

CITY OF MANCHESTER, NEW HAMPSHIRE

Complainant:

and

LOCAL #298, American Federation of State,  
County and Municipal Employees, AFL-CIO and  
Manchester Water Works Employees Association

Respondent :

CASE NO. M-0521

DECISION NO. 780045

APPEARANCES

City of Manchester, New Hampshire:

Ray Raimo, Esquire, Counsel  
Wilbur Jenkins, Personnel Director

Local #298, AFSCME and Manchester Water Works Employees Association:

James J. Barry, Esquire, Counsel  
William McDonough, Executive Director  
Robert A. Tibbetts, Jr., President

BACKGROUND

This case arises out of the situation surrounding the Manchester fire-fighters strike (see Decisions #780044 and #780046 also decided today). Both the American Federation of State, County and Municipal Employees and the Manchester Water Works Employees Association, representing the employees of various City agencies (Local 298 representing employees of the City Departments of Highways, Traffic, Parks and Recreation, Cemetery, School Custodians and Health and the Manchester Water Works Employees Association representing the employees of the City of Manchester Water Works Department) took votes to observe picket lines set up by the Manchester Firefighter's Association engaged in the strike and in fact withheld services from the City of Manchester in compliance with those votes.

The City complained, alleging violation of RSA 273-A:13 and RSA 273-A:5 II (e) and (f) alleging withholding services in violation of collective bargaining agreements in force between the City and employee organizations. A hearing was held October 24, 1978.

At the hearing, the Water Works Employees Association was represented by its President, Robert A. Tibbetts, Jr. who admitted the conduct complained against, the action of his union and the withholding of services and indicated that his organization recognized that such action was an unfair labor practice but had engaged in it as a protest against bargaining practices of the City of Manchester which the organization found offensive and the State law with which the organization disagreed; namely, RSA 273-A.

Local 298, represented by William McDonough, Executive Director of the local indicated that a meeting was held by the membership of the union on Monday, September 11, 1978 at which the issue of the firefighters strike was raised. It was indicated that a motion was made from the membership and was seconded by a member to the effect that the local vote to officially support the firefighters and to not cross picket lines. Mr. McDonough indicated that this was an official action of the union. It was indicated that the membership were informed at that time that the union could not force them not to cross the picket line but that they were urged not to do so. It was also testified that the President of the local attempted to inform the membership that the action was illegal but the membership passed the resolution regardless of his advice. It was testified at the hearing that when the picket lines were established, the members of Local 298 did not provide their services to the City of Manchester, that when the picket lines by the firefighters were removed, members of Local 298 returned to work and that the City took no action to attempt to force the men back to work when their services were being withheld including no action to order them back to work, urge them back to work, seek to have their picket lines removed or take any other action to return the membership to work.

#### FINDINGS

RSA 273-A prohibits strikes and withholdings of services from public employers by public employees through any form of job action. This Board finds that the observation of picket lines set up in the furtherance of a strike which violates that provision are similar violations. This is certainly true when the action is taken pursuant to official action of a union by its membership with the full knowledge that such action is illegal. The Manchester Water Works Association has admitted the illegality of their actions as stated in the background section above. Local 298 of the American Federation of State, County and Municipal Employees has also indicated through their Executive Director that there was knowledge of the illegality, that that knowledge was conveyed to the members and that the members nevertheless voted to withhold their services during such periods as there were picket lines set up by another union violating the law at the place of work. This Board recognizes the traditional abhorrence of members of labor organizations to crossing picket lines set up by other unions, but this Board is unable to ignore the law of the State of New Hampshire based on that observation.

The action of both organizations in withholding their services from the City of Manchester was a violation of their contracts and was an illegal withholding of services, both of which constitute unfair labor practices as charged. The Board finds that the unions took official action encouraging the withholding, the membership acting in accordance with those votes did in fact withhold their services and that these were violations of RSA 273-A:5 II(e) and (f).

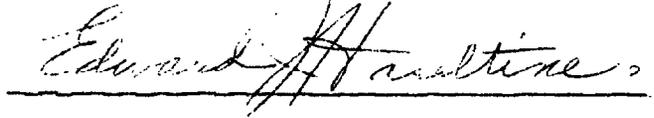
#### ORDER

The Board issues the following order:

1. Having found unfair labor practices against Local 298, American Federation of State, County and Municipal Employees and the Manchester Water Works Employees Association, the Board orders both organizations to cease and

desist any further activities in furtherance of the votes taken and further declares that the votes so taken are null and void and of no further force and effect.

2. The Board sustains the unfair labor practice complaints as stated in the complaint of the City of Manchester.

A handwritten signature in cursive script, reading "Edward J. Haseltine", is written over a horizontal line.

EDWARD J. HASELTINE, CHAIRMAN  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 21st day of November, 1978

Board members Moriarty and Cummings also present. All concurred. Board member Allman present for a portion of the hearing, took no part in the consideration of this case. Board member Anderson not present, took no part in the consideration of this case. Board Clerk Evelyn LeBrun and Board Counsel Bradford Cook also present.